



# Value Added Tax Act 1994

## 1994 CHAPTER 23

### PART IV

#### ADMINISTRATION, COLLECTION AND ENFORCEMENT

##### *Interest, repayment supplements etc. payable by Commissioners*

#### **80 [F<sup>1</sup>Credit for, or repayment of, overstated or overpaid VAT]**

[F<sup>2</sup>(1) Where a person—

- (a) has accounted to the Commissioners for VAT for a prescribed accounting period (whenever ended), and
- (b) in doing so, has brought into account as output tax an amount that was not output tax due,

the Commissioners shall be liable to credit the person with that amount.

(1A) Where the Commissioners—

- (a) have assessed a person to VAT for a prescribed accounting period (whenever ended), and
- (b) in doing so, have brought into account as output tax an amount that was not output tax due,

they shall be liable to credit the person with that amount.

(1B) Where a person has for a prescribed accounting period (whenever ended) paid to the Commissioners an amount by way of VAT that was not VAT due to them, otherwise than as a result of—

- (a) an amount that was not output tax due being brought into account as output tax, or
- (b) an amount of input tax allowable under section 26 not being brought into account,

the Commissioners shall be liable to repay to that person the amount so paid.]

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*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 80. (See end of Document for details)*

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(2) The Commissioners shall only be liable to [<sup>F3</sup>credit or] repay an amount under this section on a claim being made for the purpose.

[<sup>F4</sup>(2A) Where—

- (a) as a result of a claim under this section by virtue of subsection (1) or (1A) above an amount falls to be credited to a person, and
- (b) after setting any sums against it under or by virtue of this Act, some or all of that amount remains to his credit,

the Commissioners shall be liable to pay (or repay) to him so much of that amount as so remains.]

(3) It shall be a defence, in relation to a claim [<sup>F5</sup>under this section by virtue of subsection (1) or (1A) above, that the crediting] of an amount would unjustly enrich the claimant.

[<sup>F6</sup>(3A) Subsection (3B) below applies for the purposes of subsection (3) above where—

- (a) an amount would (apart from subsection (3) above) fall to be credited under subsection (1) or (1A) above to any person (“the taxpayer”), and
- (b) the whole or a part of the amount brought into account as mentioned in paragraph (b) of that subsection has, for practical purposes, been borne by a person other than the taxpayer.]

(3B) Where, in a case to which this subsection applies, loss or damage has been or may be incurred by the taxpayer as a result of mistaken assumptions made in his case about the operation of any VAT provisions, that loss or damage shall be disregarded, except to the extent of the quantified amount, in the making of any determination—

- (a) of whether or to what extent the [<sup>F7</sup>crediting] of an amount to the taxpayer would enrich him; or
- (b) of whether or to what extent any enrichment of the taxpayer would be unjust.

(3C) In subsection (3B) above—

“the quantified amount” means the amount (if any) which is shown by the taxpayer to constitute the amount that would appropriately compensate him for loss or damage shown by him to have resulted, for any business carried on by him, from the making of the mistaken assumptions; and

“VAT provisions” means the provisions of—

- (a) any enactment [<sup>F8</sup>or subordinate legislation] (whether or not still in force) which relates to VAT or to any matter connected with VAT; or
- (b) any notice published by the Commissioners under or for the purposes of any such enactment or subordinate legislation.

[<sup>F9</sup>(4) The Commissioners shall not be liable on a claim under this section—

- (a) to credit an amount to a person under subsection (1) or (1A) above, or
- (b) to repay an amount to a person under subsection (1B) above,

if the claim is made more than [<sup>F10</sup>4 years] after the relevant date.

(4ZA) The relevant date is—

- (a) in the case of a claim by virtue of subsection (1) above, the end of the prescribed accounting period mentioned in that subsection, unless paragraph (b) below applies;

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- (b) in the case of a claim by virtue of subsection (1) above in respect of an erroneous voluntary disclosure, the end of the prescribed accounting period in which the disclosure was made;
- (c) in the case of a claim by virtue of subsection (1A) above in respect of an assessment issued on the basis of an erroneous voluntary disclosure, the end of the prescribed accounting period in which the disclosure was made;
- (d) in the case of a claim by virtue of subsection (1A) above in any other case, the end of the prescribed accounting period in which the assessment was made;
- (e) in the case of a claim by virtue of subsection (1B) above, the date on which the payment was made.

In the case of a person who has ceased to be registered under this Act, any reference in paragraphs (b) to (d) above to a prescribed accounting period includes a reference to a period that would have been a prescribed accounting period had the person continued to be registered under this Act.

(4ZB) For the purposes of this section the cases where there is an erroneous voluntary disclosure are those cases where—

- (a) a person discloses to the Commissioners that he has not brought into account for a prescribed accounting period (whenever ended) an amount of output tax due for the period;
- (b) the disclosure is made in a later prescribed accounting period (whenever ended); and
- (c) some or all of the amount is not output tax due.]

[<sup>F11</sup>(4A) Where—

- (a) an amount has been credited under subsection (1) or (1A) above to any person at any time on or after 26th May 2005, and
- (b) the amount so credited exceeded the amount which the Commissioners were liable at that time to credit to that person,

the Commissioners may, to the best of their judgement, assess the excess credited to that person and notify it to him.]

[<sup>F12</sup>(4AA) An assessment under subsection (4A) shall not be made more than 2 years after the later of—

- (a) the end of the prescribed accounting period in which the amount was credited to the person, and
- (b) the time when evidence of facts sufficient in the opinion of the Commissioners to justify the making of the assessment comes to the knowledge of the Commissioners.]

<sup>F13</sup>(4C) .....

(6) A claim under this section shall be made in such form and manner and shall be supported by such documentary evidence as the Commissioners prescribe by regulations; and regulations under this subsection may make different provision for different cases.

[<sup>F14</sup>(7) Except as provided by this section <sup>F15</sup>..., the Commissioners shall not be liable to credit or repay any amount accounted for or paid to them by way of VAT that was not VAT due to them.]

*Changes to legislation: There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 80. (See end of Document for details)*

### Textual Amendments

- F1** S. 80 side-note substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(11\)](#)
- F2** S. 80(1)-(1B) substituted for s. 80(1) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(2\)](#)
- F3** Words in s. 80(2) inserted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(3\)](#)
- F4** S. 80(2A) inserted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(4\)](#)
- F5** Words in s. 80(3) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(5\)](#)
- F6** S. 80(3A) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(6\)](#)
- F7** Word in s. 80(3B)(a) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(7\)](#)
- F8** Words in s. 80(3C) substituted (31.12.2020) by [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 71\(2\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)
- F9** S. 80(4)(4ZA)(4ZB) substituted for s. 80(4) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(8\)](#)
- F10** Words in s. 80(4) substituted (1.4.2009) by [Finance Act 2008 \(c. 9\), s. 118\(2\), Sch. 39 para. 36; S.I. 2009/403, art. 2\(1\)](#) (with art. 6)
- F11** S. 80(4A) substituted for s. 80(4A)(4B) (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(9\)](#)
- F12** S. 80(4AA) inserted (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\), s. 120\(3\)\(5\)](#)
- F13** S. 80(4C) omitted (with effect in accordance with art. 1(3)(b) of the amending S.I.) by virtue of [The Finance Act 2009, Sections 101 and 102 \(Value Added Tax\) \(Late Payment Interest and Repayment Interest\) \(Exceptions and Consequential Amendments\) Order 2022 \(S.I. 2022/1298\), arts. 1\(3\)\(a\), 3\(10\)](#)
- F14** S. 80(7) substituted (with effect in accordance with s. 4(6) of the amending Act) by [Finance \(No. 2\) Act 2005 \(c. 22\), s. 3\(10\)](#)
- F15** Words in s. 80(7) omitted (31.12.2020) by virtue of [Taxation \(Cross-border Trade\) Act 2018 \(c. 22\), s. 57\(3\), Sch. 8 para. 71\(3\)](#) (with Sch. 8 para. 99) (with savings and transitional provisions in S.I. 2019/105 (as amended by S.I. 2020/1495, regs. 1(2), 21), S.I. 2020/1545, Pt. 4 and 2020 c. 26, Sch. 2 para. 7(7)-(9)); S.I. 2020/1642, reg. 4(b) (with reg. 7)

### Modifications etc. (not altering text)

- C1** S. 80(4) modified (retrospective to 19.3.2008) by [Finance Act 2008 \(c. 9\), s. 121\(1\)\(4\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Value Added Tax Act 1994, Section 80.